

VZCZCXR05583

PP RUEHBZ RUEHMR RUEHRN

DE RUEHC #8852/01 0582318

ZNY CCCCC ZZH

P 272302Z FEB 09

FM SECSTATE WASHDC

TO RUEHOR/AMEMBASSY GABORONE PRIORITY 6438

INFO SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE PRIORITY

RUEKJCS/SECDEF WASHINGTON DC PRIORITY

RHMFISS/CDR USAFRICOM STUTTGART GE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 STATE 018852

SIPDIS

E.O. 12958: DECL: 02/27/2019

TAGS: EAID PREL SADC ZI BC

SUBJECT: REQUEST FOR INFORMATION ON SADC CONTROLS

REF: STATE 7798

Classified By: AF Acting A/S K. Wycoff for reasons 1.4 (b,d)

¶1. (U) Summary: This is an action request; see paragraph 5. The Department is seeking preliminary information from SADC to determine whether the United States and SADC may enter into an agreement to transfer defense articles and services. End Summary.

BACKGROUND

-----

¶2. (SBU) On January 16, former President Bush signed a Presidential Determination (PD) recognizing that "the furnishing of defense articles and defense services to the Southern African Development Community (SADC) will strengthen the security of the United States and promote world peace." The PD for SADC is similar to previous PDs for the Economic Community of West African States (ECOWAS) and the African Union (AU) and is intended to enable the USG to provide targeted assistance to this African entity to increase peacekeeping and crisis response capacity, strengthen interoperability, and improve our mil-to-mil cooperation.

¶3. (SBU) One of several steps required before the U.S. may approve transfer of any defense articles and defense services to SADC is to conclude a "Section 505" agreement with SADC. Such agreements establish end use, retransfer, and security obligations applicable to, at a minimum, defense articles and defense services provided on a grant basis pursuant to the Foreign Assistance Act of 1961, as amended (FAA). To prepare for negotiations on a Section 505 agreement with SADC, the Department requires preliminary information from SADC about its authority, reliability, access, and enforcement mechanisms. The Department requests that Post provide the questions in paragraph 5 in writing to, and obtain a response in writing from, appropriate SADC authorities.

¶4. (C) We seek to clearly establish that, should the USG provide SADC with goods or services in the future, SADC is willing and able to deny such goods or services to any SADC member state that is or may in the future be prohibited from receiving U.S.-origin goods or services. We note, for example, that some such prohibitions currently exist with respect to Zimbabwe. Any assistance provided to the SADC Standby Brigade would be considered on a case-by-case basis and must also comply with all relevant existing legal obligations, including, where appropriate, restrictions applicable to SADC members. While SADC members are aware of U.S. restrictions regarding Zimbabwe, we do not wish to focus discussion on any particular country.

INFORMATION NEEDED FROM SADC

-----  
¶5. (SBU) The Department requests that Post engage SADC leadership at the appropriate level to obtain written answers to the following questions. This information is necessary to

determine whether the United States and SADC may enter into a reliable and enforceable Section 505 agreement. Post is also encouraged to draw on the points in reftel when approaching the Secretariat.

a. Which SADC entity will be responsible for the negotiation of the end-use, retransfer and security agreement with the United States?

b. Which SADC entity(s) will be involved in the approval of such an agreement?

c. Will the agreement be approved by the SADC Summit (Heads of State or Government)?

d. Will the end-use, retransfer, and security agreement be approved by each SADC Member State? Or, would "consensus" mean only that there is no opposition (abstentions would not hold up the agreement)?

e. How would SADC establish and enforce end-use, retransfer, and security obligations?

f. May SADC restrict the access to USG-provided articles and services by nationals of designated SADC Member States?

g. May the Executive Secretary, as custodian of such items,

STATE 00018852 002 OF 002

restrict the access provided to Secretariat employees based upon their nationality?

h. How would the Secretariat secure articles and services provided by the USG?

i. Will SADC be able to comply with restrictions on use of articles and assistance provided by the USG?

j. Would the agreement resulting in the imposition of restrictions on access to certain items based on nationality be considered to be compatible with the objectives of SADC and the provisions of the SADC Declaration and Charter?

k. Has the SADC Tribunal rendered any decisions where issues of nationality or national access to SADC property were raised? If so, please provide copies of the rulings.

l. What measure would SADC take with respect to persons or countries that fail to uphold SADC obligations?

¶6. (U) Please report results by cable slugged to PM/RSAT, PM/PPA, AF/S, and L/PM. PM/RSAT POC is Daniel Wartko.  
CLINTON